

James M. Hanavan, State Bar No. 66097
Kristen E. Drake, State Bar No. 202827
CRAIGIE, McCARTHY & CLOW
540 Pacific Avenue
San Francisco, CA 94133
Telephone: (415) 732-7788
Facsimile: (415) 732-7783

Attorneys for Plaintiff Trevor Moss

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

TREVOR MOSS,

Plaintiff,

v.

TIBERON MINERALS LTD.,

Defendant.

Case No.: C 07-2732- SC

**PLAINTIFF'S EVIDENTIARY
OBJECTIONS TO THE DECLARATION
OF STEVEN J. CRESSWELL IN
SUPPORT OF MOTION TO DISMISS
FOR *FORUM NON- CONVENIENS***

Hearing Date: October 26, 2007
Time: 10:00 a.m.
Location: Courtroom 1, 17th Floor
Judge: Hon. Samuel Conti

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Plaintiff Trevor Moss hereby objects to the Declaration of Steven J. Cresswell in Support of Motion to Dismiss for *Forum Non-Conveniens* as follows:

Objectionable Evidence	Grounds for Objection
<p>Paragraph 1, line 22 beginning with “My involvement”;</p> <p>Paragraph 2;</p> <p>Paragraph 3;</p> <p>Paragraph 4;</p> <p>Paragraph 6.</p>	<p>Lacks foundation establishing personal knowledge; Hearsay; Violates best evidence rule (Federal Rules of Evidence (“FRE”) 701, 802, 901, 902, 1002):</p> <p>Mr. Cresswell’s statements are inadmissible hearsay and the statements of fact lack foundation as they are based upon “official records, e.g., board minutes, compensation committee minutes” that are not attached to his declaration. “‘Hearsay’ is a statement, other than one made by the declarant while testifying at the current trial or hearing, offered in evidence to prove the truth of the matter asserted.” FRE 801(c). “Hearsay is not admissible except as provided by these rules or by other rules prescribed by the Supreme Court pursuant to statutory authority or by Act of Congress.” FRE 802. The statements also violate the best evidence rule as the “official records, e.g., board minutes, compensation committee minutes” are not attached. FRE 1002.</p> <p>The objectionable testimony must be excluded.</p>
<p>Paragraph 5.</p>	<p>Lacks foundation establishing personal knowledge, FRE 701.</p> <p>Mr. Cresswell’s statements lack foundation as the term “historical books, records and files” does not provide any meaningful information. Of note, defendant has now provided plaintiff with three different versions</p>

regarding the location of defendant's records: 1) defendant's memorandum brief in support of its motion states that defendant's records are located in British Columbia, Canada [Memorandum in Support at pg. 4, ft. 1]; 2) the declaration of Mario Caron states that defendant's records are located in Toronto, Canada, Hanoi and Dai Tu, Vietnam and Brisbane, Australia [Mario Caron Decl. at ¶ 5]; and 3) Mr. Cresswell states that defendant's records are located in Toronto, Canada and the joint venture's in Vietnam [Cresswell Decl. at ¶ 5]. Tiberon, as party to this case, is required to produce the records in response to plaintiff's document production request. FRCP 34. Relevant records have been requested, and since they are apparently located in five cities in three different countries, the burden would appear about the same wherever they must be produced.

Dated: October 19, 2007

CRAIGIE, McCARTHY & CLOW

/s/ James M. Hanavan

By: James M. Hanavan
Attorneys for Plaintiff Trevor Moss